

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ANTHONY PRESCOTT., #2174108

VS.

DENTON COUNTY JAIL, ET AL.

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CIVIL ACTION NO. 4:16cv879

**ORDER ADOPTING THE JULY 15, 2019 REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The above-entitled and numbered civil action was referred to United States Magistrate Judge Kimberly C. Priest Johnson. On July 15, 2019, the Magistrate Judge issued a Report and Recommendation, concluding that Plaintiff's claims against Defendants Mike Ganzer, Corporal Gauge, Deputy Sheriff Von, Sheriff William Travis, Deputy Sheriff Whitmoor, Deputy Sheriff Vybarrar, and Deputy Sheriff Killshaw should be dismissed. (Dkt. # 164). The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations, has been presented for consideration. After conducting a de novo review of the objections raised by Petitioner to the Report, the Court concludes they are without merit.

In the Report, the Magistrate Judge noted that, on June 13, 2019, the Court had issued an Order (Dkt. #152) giving Plaintiff fourteen days from the receipt of that Order to supply the correct names and addresses for Defendants Mike Ganzer, Corporal Gauge, Deputy Sheriff Von, Sheriff William Travis, Deputy Sheriff Whitmoor, Deputy Sheriff Vybarrar, and Deputy Sheriff Killshaw. Plaintiff was placed on notice that it was his obligation to provide the Court with the information

needed to serve process on the Defendants. *Kersh v. Derozier*, 851 F.2d 1509 (5th Cir. 1988). He was warned that the lawsuit may be dismissed if he did not timely comply with the Order. He was obligated to provide the correct names and addresses by July 2, 2019. He did not comply with the Order. Therefore, the Magistrate Judge recommended that Plaintiff's claims against Defendants Mike Ganzer, Corporal Gauge, Deputy Sheriff Von, Sheriff William Travis, Deputy Sheriff Whitmoor, Deputy Sheriff Vybarrar, and Deputy Sheriff Killshaw should be dismissed.

On July 24, 2019, Plaintiff filed objections to the July 15, 2019 Report and Recommendation. (Dkt. # 170). In those objections, Plaintiff contends that he had written to the United States Marshall's Office to complain about the Sheriff seeking to conceal the identities of these Defendants. He also alleges that he had written to a law firm seeking assistance. He states that neither had replied. He requests the Court to serve those Defendants by publication. As Plaintiff was advised, it is his obligation to provide the Court with the information needed to serve process on the Defendants. *Kersh*, 851 F.2d 1509.

It is accordingly **ORDERED** that Plaintiff's claims against Defendants Mike Ganzer, Corporal Gauge, Deputy Sheriff Von, Sheriff William Travis, Deputy Sheriff Whitmoor, Deputy Sheriff Vybarrar, and Deputy Sheriff Killshaw should be **DISMISSED without prejudice**.

SIGNED this 12th day of February, 2020.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE